CORRECTED

MINUTES
PROPERTY TAX INTERIM COMMITTEE
WEDNESDAY, JUNE 29, 2005
9:00 a.m.
GOLD ROOM, STATEHOUSE
BOISE, IDAHO

The meeting was called to order at 9:05 a.m. by Cochairman Representative Dennis Lake. Other Committee members present were Cochairman Representative Shawn Keough, Senator Brad Little, Senator Monte Pearce, Senator John Goedde, Senator Tim Corder, Senator Elliot Werk, Senator David Langhorst, Representative Bill Deal, Representative Mike Moyle, Representative Gary Collins, Representative Eric Anderson, Representative Wendy Jaquet and Representative George Sayler.

Other present were Mr. and Mrs. George Emerson; Freeman Duncan, Kootenai County Property Tax Relief Task Force; Jan Wall, Idaho State Library; William J. Bonner, AARP of Idaho; Mike Brassey, Suncor Development Company; Ken Robison; Randy Tilley, Department of Financial Management; Randy Nelson and Nick Raganit, Association Taxpayers of Idaho; Megan Holmes and Mina Eng, Congressman Otter's Office; Katrina Basye and Rich Hahn, Idaho Power; Don Reading, Idaho Center on Budget and Tax Policy; Matt Ellsworth, Centra Consulting; Steve Ahrens, Idaho Association of Commerce and Industry; Dan John; Steve Fiscus, Tom Katsilometes, State Tax Commission; Daniel G. Chadwick, Idaho Association of Counties; Pam Eaton, Idaho Retailers Association; Erin Bennett and John Watts, Veritas; Alex LeBeau and John Eaton, Idaho Realtors; Eldon Wallace; Betsy Russell, The Spokesman Review; Marisa Nelson; Tom Ryder, JR Simplot Company; Skip Smyser, Connolly & Smyser, Ltd.; Ken Harward, Association of Idaho Cities; Suzanne Scott, Coeur d'Alene Chamber of Commerce; Chuck Moss; Ben Doty; Phil Homer, IASA; Suzanne Schaefer, SBS Associates; Pat Sullivan and Andrea Mihm, Sullivan and Reberger; Neil Colwell, Avista Corp; and Jerry Deckard, Capitol West. Legislative Services staff present were Mike Nugent, Jason Hancock and Toni Hobbs.

Cochairman Representative Lake welcomed the committee members and after introductions he said that he realizes this is a contentious issue and hoped that everyone would have an open mind and gather all the facts without trying to promote any particular agenda.

Representative Lake suggested that before the committee moves legislation forward, it receive a 2/3 vote of committee members, not just a 51% vote. **Representative Jaquet** said that she would hope the committee would allow individuals to introduce their own legislation to the full legislature even though the committee may not have endorsed the issue. **Representative Lake**

said that was always an option.

Senator Little made the motion that any official recommendation from this committee require a 2/3 vote before moving it forward. **Senator Corder** seconded. **The motion carried by voice vote unanimously.**

Representative Lake went on to discuss HCR23 that established the Property Tax Interim Committee. He said that some of the issues the committee will be discussing include the circuit breaker, full disclosure of property at sale, the 3% cap and restricting the amount property value can increase each year. HCR23 says that the committee is to undertake a complete study of the state property tax structure and to make recommendations to implement a strategy on property tax structure for succeeding years. **Representative Lake** noted that the committee will be traveling throughout the state to hear from different geographic areas regarding property tax issues.

The next item for discussion was the legislation from last year's legislative session that was actually printed. **Mr. Mike Nugent, Legislative Services Office,** explained that these bills included amending the 50/50 homeowners exemption, the circuit breaker property tax exemption, the 3% cap and an exemption to property tax for a homeowner over 70 years of age or older. The bills discussed and that will be put on the internet as attachments to these minutes were HB124, HB166, HB241, HB242, HB243, HB275, HB279, HB317 and HB320. The legislative website where these will be posted is: www.legislature.idaho.gov/. **Mr. Nugent** noted that the developers discount bill was not included because it was not clear that it was a property tax reduction in all cases.

Senator Goedde said that he was aware of at least two RS that were not printed that dealt with local option taxes and he proposed that the committee look at the issue of community college funding and an examination of enhanced property. In his opinion community colleges are very important economic developments for communities but there is an inequity that exists with regard to funding.

Representative Jaquet suggested that committee discuss the need for regional district attorneys as well as property tax replacement.

Representative Deal said that he would like the committee to look at a possible constitutional amendment that requires annual assessment or property valuations. This is legislation that he proposed last year. In his opinion this would be a very significant step in solving the property tax issued.

Representative Lake said that it would be appropriate for committee members to present any legislation with the committee.

Representative Jaquet asked **Senator Goedde** if his suggestion to discuss local option tax would include real estate transfer tax. **Senator Goedde** said that his version did not include the real estate transfer tax. **Representative Jaquet** said she would like to make sure that issue is discussed by the committee. This is a big issue in growing communities across the state. **Representative Lake** asked how this would help reduce property taxes. **Representative Jaquet** said that real estate transfer taxes have been used in other communities for non-ongoing operations costs. Such as funds to acquire to open space or to build up money for school buildings. She added that in order to have a real estate transfer tax the state would have to require full sales price disclosure on real estate sales. In response to a question from **Representative Lake** regarding the stamp tax money and how that was used, **Mr. Dan John, State Tax Commission,** said he would get that information for the committee. He explained that this has not been in effect for quite some time.

Senator Langhorst said that he would like the committee to look at the effect of the cap on property tax replacement and see a study of supplemental levies that have been done across the state as well as what is happening with school funding.

Representative Sayler added that he would like to the committee to look at the assessment process as well as impact fees being used to help pay for new growth.

Representative Jaquet said that the expenditure side has not been a big part of the discussion. She stated that getting citizens more involved in the budgeting process might help because they would be able, to some degree, to direct how their property taxes are spent.

Senator Goedde said that he would also like to discuss foregone balances and how they are being used. The question is does having a 3% cap just give entities an excuse to take the entire 3%.

Representative Deal stated that he would like the committee to look at the fundamentals that are being used in assessing property, how property values are used to move market value, how trends are used and how geoeconomic areas are created. He said that another of his concerns is the consistency of assessed valuation of property between counties.

Mr. Dan John, State Tax Commission was introduced to discuss Idaho Property Taxes and the Idaho Tax Structure. His complete powerpoint presentation will be available as an attachment to these minutes at: www.legislature.idaho.gov/. He said that the purpose of his presentation was to explain the property tax structure in Idaho and to inform the committee what the system is, how it works, explain where the money comes and where it goes. He added that because the system of property tax is tied to other taxes, his presentation includes slides that show the mixture of the entire tax system. In his opinion, in order for the committee to meet its charge, it is important for them to have a good understanding of the entire tax system.

Mr. John explained that the 2004 General Fund State Tax Revenue does not include property tax because there is no state property tax in Idaho. Since the sales tax was implemented in 1965, Idaho, other than a small carryover, has not had a statewide property tax. The state oversees the system and the consistency.

Mr. John said that there is a giant myth in Idaho that the sales tax is dedicated to the schools. This is not true. According to **Mr. John,** there is nothing in the sales tax fund that goes directly to the schools. Of slightly over $1 billion in 2004, about $890 million went to the general fund and a good share of that does go to the schools. **Mr. John** explained that another $143 million comes off the top of the sales tax through direct appropriations. This includes:

- City Revenue Sharing
- County Revenue Sharing
- The Business Inventory Replacement
- The Circuit Breaker

Mr. John explained that the circuit breaker is property tax that is paid by the state to the local entities of government. This is paid for low income people that meet certain qualifications. The state pays all or part of the property tax for people that qualify based on income and, in some cases, age requirements. **Mr. John** noted that in the past this was a direct appropriation for a set amount and any amount over that the circuit breaker cost went back on the other property tax payers. Today all of the circuit breaker is paid out of the sales tax.

In response to a question from **Representative Lake, Mr. John** said that another report titled *Circuit Breaker Statistics Through 2004* shows that amounts, caps and usage for circuit breakers. He made that report available to committee members. **Representative Lake** asked if other local taxing districts were held harmless to the circuit breaker. **Mr. John** said that was correct. Other taxpayers are not required to make up the difference through additional property tax. **Mr. John** stated that the income levels are indexed based on the social security index.

In response to a question from **Representative Sayler, Mr. John** said that the state pays all circuit breaker claims that are valid. The higher a person's income, the lower the circuit breaker benefit. After the circuit breaker benefit is applied, the homeowner is responsible for the difference.

Senator Langhorst asked if the homeowners exemption is increased it have an effect on the circuit breaker. **Mr. John** said yes. He explained that if the homeowners exemption is increased, the value goes down, the property tax goes down for the homeowner, the other property tax payers pay more property tax and the state actually pays less to get the same amount of money.

Senator Little asked what causes increases in the amount needed by the state to pay the circuit breaker. **Mr. John** said that there is a cap on the amount of property tax for the circuit breaker the state will pay. He thinks that is about $1,200. He said increases are due to more claims and due to the fact that low end property values are increasing. Homes that are already receiving the maximum do not receive more circuit breaker money regardless of whether their property value increases or not.

Representative Jaquet asked if the number of people applying for the circuit breaker is actually lower than the number that qualify. **Mr. John** said that there is some evidence that some people do not apply for the circuit breaker that are eligible. This is found by looking at census data. There are various reasons for this and he said he would get more information for the committee.

In response to another question from **Representative Jaquet, Mr. John** said people do have to reapply annually for the circuit breaker because it is an income based program. He said it was his understanding that county assessors send out preprinted forms to remind people.

Mr. John went on to explain that all state and local tax revenue equals about $3.4 billion and the property tax portion of this is about $1.1 million. **Senator Goedde** asked if there is historical data available showing how those percentages have changed over the years. **Mr. John** said he would provide that for the committee but that the percentages remain fairly closed to 1/3 sales tax, 1/3 property tax and 1/3 individual income tax.

In response to a question from **Senator Pearce** regarding the percentage of adults in Idaho that are land owners, **Mr. John** said it might be possible to get that through the census but that it would be difficult.

The state general fund appropriation for 2004 shows that Health and Welfare gets about 20%, Education gets about 64.5% and all other gets about 16% and the biggest part here probably goes to Corrections. **Mr. John** explained that public schools in 2004 got 72.9% of the 64.5% that went to education.

Mr. John's next chart showed the trends of the various tax types. It shows that since the inception of the sales tax, the percentage of state and local revenue that property taxes provide has dropped. **Representative Lake** said he would like to have this slide presented as the committee travels to different areas of the state.

Mr. John went on to show how the property tax gets used. For 2004, of $1.1 billion, schools got 42.8% or $487.8 million. **Mr. John** said that of that amount, approximately $271 million was the levy for maintenance and operations (M&O). Cities and counties each get about 22% of the $1.1 billion and all other get 7.3%. This includes cemetery districts, Jr. Colleges, fire districts and miscellaneous.

Representative Jaquet cautioned making a one size fits all solution to this problem. She is in a high market value district and 67% of her property taxes go to schools. She stated that different counties pay different property taxes and said she would like for the committee to get that information. **Mr. John** said he would get that for the committee.

He explained that Idaho has just under 1,100 taxing districts. These include cities, counties, schools, ambulance districts, fire districts and the like. 919 of these districts levy property taxes of some amount. **Mr. John** said that this is where part of the complexity of the system is. This is because many of the 919 districts that levy overlap in tax code areas. He said there are actually 2,500 or more tax code areas in Idaho that are separate and distinct. He explained that due to the uniformity clause in the Idaho Constitution, everything goes down from the highest taxing district in the state.

Mr. John said that for property tax, in 2002 Idaho was at 91.1% of the national average compared to Utah at 79.2%. Based on income level in 2002, Idaho was about 10% below the national average and on a per capita basis the state is way below the national average for property tax at 26.4%. In response to a question from **Representative Sayler** as to whether there have been any changes made since that time that would change these results, **Mr. John** said that the reductions that have been made in income tax would probably not be fully reflected and that the increase in sales tax would not be reflected either.

Mr. John explained that a study done by the District of Columbia that uses uniform assessments shows how Idaho compares taxwise at different income levels. It is based on estimates and uses the largest cities. In 2002, this study showed that at $25,000, our property tax is below the national average. At $50,000, Idaho property tax is somewhat below average but increasing and at $75,000, the state is still somewhat below the national average.

Mr. John went on to explain how levies are calculated as shown below.

, Each property is appraised to find its market value.
, All values within a taxing district (school, city, etc.) are summed.
, Homeowner's (and other) exemptions are subtracted.
, The taxing district computes its property tax budget by subtracting other revenue sources.
, The levy rate is the property tax budget divided by the net taxable value.

Senator Little asked if this is the same way other states calculated their property taxes. **Mr. John** said that he was not sure but he would assume that setting the levies is very similar. He added that in getting to the exemptions from tax, some states still run on ratios and that the value or budget portions could be quite different.

1. Levies for your taxing districts are added together:
   a) County b) School c) City d) Special Districts
2. The total of these levies is multiplied by your taxable value to determine your tax.

Example of Computation
Assume levy = 0.01743 (average urban ooc-residential rate in 2004)

House Value:	$ 60,000
Lot Value:	$ 15,000
Total Value:	$ 75,000
Less Homeowner's Exemption:	<$ 30,000>
Taxable Value:	$ 45,000

$ 45,000 x 0.01743 = $ 784

Effective tax levy: $ 784 / $ 75,000 = 1.05%

Senator Pearce asked how other states figure the values for property. **Mr. John** said that he would get that information for the committee. He said that there are a lot of differences. Some states use market value, some go to market value and tax on an assessment ratio basis and so on. **Mr. John,** in response to another question from **Senator Langhorst,** said he would get a comparison of Idaho and other states regarding the uniformity of taxation provisions in their constitutions.

Limits on property taxes that have been in effect since 1995 are:

- School M&O levies limited to 0.003* multiplied by prior year value.
- Funds of taxing districts limited to certain maximum levy rates.
- Portion of taxing district budget derived from property tax can increase up to 3% per year plus an amount for new construction and annexation.
- There is no limit on the amount that an individual's property tax can increase from year to year.
- Depends on distribution of value.
- Did your property value increase faster than other property?

*Boise School's multiplier is 0.00664167

Mr. John explained the breakdown of property tax both increases and decreases as follows:

CAUSE OF INCREASED PROPERTY TAX	POTENTIAL INCREASE AMOUNT*
3% General Cap	\$18.0 million
Increase in school bonds, judgments and school exempt levies other than M&0	\$12.8 million
Decreases in school judgment funds	\$<3.1> million
Increases <decreases> in non-school bonds and voter-approved levies	\$<3.9> million
Increase in school M&O property tax	\$9.9 million
Additional dollars available due to new construction	\$20.0 million
Additional dollars available due to annexation	\$2.8 million
Increase <decrease> due to new levies in 2003 or existing districts not levying in 2003	\$1.1 million

Property tax increase <decrease> due to use of Foregone Amount	$3.3 million
Increase due to re-establishment of Kootenai County property tax relief	$<1.2> million

In response to a question from **Representative Lake, Mr. John** explained that the Foregone Amount is established if a county does not need the entire 3% they are allowed. That money can then be used in the future should the county need more than the 3% they are allowed. **Senator Keough** asked if there is a limit as to how long that money can be set aside for. **Mr. John** said no. **Senator Goedde** said it was his understanding that the Foregone Balance goes into the base and is ongoing. **Mr. Ted Spangler** said that was correct. **Mr. John** said that if the foregone balance did not exist, everyone would probably automatically take the maximum 3% every year.

Representative Sayler asked how new construction impacts existing property owners. **Mr. John** said that to get the new construction amount, that dollar figure is multiplied by the previous year's levy and added to the budget amount plus the 3% cap. It would only impact existing property owners if the property became exempt for some reason. He noted that if new construction is added to the budget and then becomes exempt, that causes those that are not exempt pay higher property taxes to make up the difference.

Senator Goedde stated that in setting these budgets, regarding new construction, the cost of providing services to these new developments needs to be factored in. In his opinion, this needs to be analyzed to see if impact fees might be a better option. **Mr. John** said that without the new construction amount being added to the budget, if a community was expanding at a rapid rate and the budget could only go up 3%, the community would quickly outpace its revenue for the existing services.

Mr. John gave an example of Boise Homeowner Property Tax in 1980 versus 2003

<u>1980</u>	Value (average sale):	$ 45,587
	Tax:	$ 484
<u>2003</u>	Value (average sale):	$166,770
	Tax: (Ada TCA1001)	$ 2,094
	2003 Inflation Adjustment:	
	Tax:	$ 891

Constant dollar annual increase: 2.7%

The 2003 values are based on 2002-03 sales and 2003 tax rate.

The change in property tax from 2003 to 2004 is shown below.

Type of Property	2004% of Value	2004 % of tax	Change in Tax (value)
Residential	64.0	61.6	9.6% (value up by 11.3%)
Commercial	25.1	28.7	-0.1% (value even)
Agriculture	4.9	4.2	2.8% (value up by 1.1%)
Timber	1.1	0.9	-7.3% (value down 9.3%)
Operating (utilities and railroads)	4.6	4.4	-3.9% (value down 3.9%

In a chart showing the effects of the 2004 Homeowner's Exemption on Individual Property, **Mr. John** said that without the exemption, urban and rural owner occupied residential properties taxes would be much higher. For urban and rural commercial property, without the homeowner's exemption, the tax would be less. On a farm, without the homeowner's exemption, the tax would have dropped also.

Mr. John explained property tax use changes as follows

Type of District	Change in Property Tax
County	+ 6.4%
City	+ 6.3%
School	+ 4.3%
M&O	+ 3.8%
Override	+ 2.6%
Bond	+ 4.8%
Plant Facilities	+ 5.9%
Highway & County Road & Bridge	+ 6.4%
Junior College	+ 6.2%
All Other	+ 7.5%

Mr. John gave the following example of the dynamics of property tax in a budget ($) driven system.

System Change (What if...)	Property Tax Shift
Increase in homeowner's exemption	Commercial, rental, farm, AND:
a. $50,000 limit	a. homes below $100,000
b. Add land ($ limit same)	b. $100,000+ homes, MH
c. Add land ($ limit higher)	c. Mobile homes, 2nd homes
d. 50% limit ($ limit same)	d. $100,000+ homes
e. 50% limit ($ limit higher)	e. Mobile homes, 2nd homes
Cap assessed value changes: Homes or all property	Property appreciating slowly including farms, and property which depreciates such as business personal property
Increase circuit breaker: Benefits, income limits or add new groups	No property tax shift Replacement from state taxes

Assumes the same amount of money is to be raised

Mr. John said that if the homeowner's exemption is increased, there will always be a property tax shift to commercial, rental, agricultural and non-owner occupied residential property. If the $50,000 limit is increased, homes below $100,000 are also effected and so on as shown above.

Mr. John's complete powerpoint presentation will be available as an attachment to these minutes at: www.legislature.idaho.gov. This includes more graphs and charts showing per capita property taxes in Idaho versus the U.S., Changes in Property Tax by Sector, Changes in Property Tax Use, Dynamics of Property Tax and the Effect of Value Increase Limits.

Mr. Randy Nelson, Associated Taxpayers of Idaho, was the next speaker. His complete powerpoint presentation titled *Property Taxes and Idaho's System* will be available as an attachment to these minutes at: www.legislature.idaho.gov.

Mr. Nelson showed the following chart of FY2002 Idaho Tax/Fiscal System:

Local Property taxes (2001 Levy Year) = $948.5 M
State Budget Funds = $4,180.3 M

a. $1,979.5 M General Funds
b. $541.3 M Dedicated
c. $1,414.3 M Federal
d. $245.2 M Other (Est.)

3. Net State/Federal Intergovernmental = $285.8 M
(Revenue to Local Governments)
a. Local Fees, Licenses, fines, etc. = $1,182.5 M
(From U.S. Bureau of Census 2002)
b. Other Local Revenue = $98.4 M
(Interest earnings/Property Sales)
TOTAL = $6,695.5 M

He said that the dedicated funds were primarily state fuels tax, public school income fund, Fish and Game, Lands, Parks and Recreation and those types of revenues. On the federal amount, **Mr. Nelson** explained that even though Idaho pays about $6.3 billion in federal taxes, we get about $8.2 billion back or roughly $1.30 back for each dollar we pay. The amount that actually comes back to the state from the federal government in grants is $1.4 billion. The $245.2 million under other is mostly colleges and university fees, Health and Welfare, Labor, Administration and Public Health Districts. The state sales tax is included under item 3.

Mr. Nelson broke down item 3 as follows:

Net State/Federal Intergovernmental Revenue (to local, non-school taxing districts)

WHERE FROM
(Some Funds)

States Sales Tax (Rev./Share, Inv./Rplc.)	$108.0 M
State Hwy. Fuels/Regis. Fees	$112.8 M
National Forest Funds (70% Roads)	$14.0 M
Federal Lands Pmt. In Lieu of Taxes (PILT)	$13.9 M
State Paid Agri. Pers. Prop. Tax (less $6.9 Sch.)	$6.5 M
State Liquor Tax (60% Cities, (40% Counties)	$12.8 M
All Others/incl. $12.8M Cir. Bkr.	$17.8 M
	$285.8 M

WHERE TO
(Three Largest)

Counties	$ 92.6 M
Cities	$ 55.4 M
Roads (Hwy. Dist., Cities, Counties)	$130.8 M
All Others	$ 7.0 M
	$285.8 M

Mr. Nelson explained that the history of property, income and sales taxation in Idaho began in 1863 with tax revenue coming principally from property taxes. At this time, males age 21 to 50 were charged a $4.00 poll tax. In 1931 the State Income Tax was instituted with the Property Tax Relief Act. In 1965 sales tax was instituted at 3%, it was raised in March 1983 to 4%, June 1983 4.5%, July 1984 4%, April 1986 5% temporary and July 1987 the 5% was made permanent. The homeowner's exemption originally passed in 1982 that valued everything at its market value. In 1991 the property tax issue was building again and the 5% budget or levy property tax cap was repealed and "Truth in Taxation" was instituted for 5% plus M&O budget increases. During Governor Batt's administration 1% property tax initiatives were proposed and defeated. In 1995 25% of school M&O levy shifted to sales tax, 3% budget cap, plus growth on other local governments. In 2003 the sales tax was increased to 6% through June 2005. At the same time the cigarette tax was increased from 28 cents to 57 cents per pack and this was made permanent in 2005.

Mr. Nelson showed a comparison of selected state and local tax collections starting with 1945. He said that in 1945 local property taxes were twice as much as the state taxes. By 1970, the sales tax was added and that somewhat evened out the difference between state taxes and property taxes. By 1995, the state taxes are basically twice what the local property taxes are. In 2004 with the economy slowing, property taxes continued to grow while the state taxes dropped somewhat.

Local property taxes come from the following:

Owner-occupied residential	40.5%
Commercial/Industrial	28.7%
Non Owner-occupied residential	21.1%
Operating	4.4%
Agricultural	4.2%
Timber	0.9%
Mining	0.3%

How local property taxes are distributed

Schools	42.8%
County	23.1%
City	21.6%
Roads/Highways	5.3%
All Others	4.2%
Fire Districts	3.0%

Public School Detail	
General M&O	$271.9
Bonds	93.4
Supplemental Levy	68.0
Plant Facilities	36.6
Tort/Emg/Other	17.7
Total	$487.7M or 42.8%

Mr. Nelson said that property taxes have increased $274.5 million over the last five years. This is shown below.

Counties, Cities, Other Non-School Dist. Provisions		**Five Year Amount**	**% of Total Increase**
1.	3% Budget Increase	$67.6M*	24.6%
2.	Taxable New Construction value + Annexation Value (times the previous Year tax rate)	$93.1M*	33.9%
3.	Net Increase/decrease in non-school bond and voter approved levies	($4.1M)	(1.5%)
Public School District Provisions			
4.	General 0.3% multiplier times prev. years 12/31 taxable value (Boise S.D. is + 0.6%)	$62.3M	22.7%
5.	Net increase/decrease in local school bonds, plant facilities and suppl. levies	$55.6M	20.3%
	FIVE YEAR INCREASE	**$274.5M**	**100.0%**

* Net combined $14.2M foregone amount is not included in provisions 1 and 2, but can be recaptured in future maximum budget setting. The cumulative $14.2M five-year amount is included in the statewide foregone balance of $30.0M, which also can be levied in any future budget year.

SOURCE: Annual Market Value and Property Tax Reports. Idaho State Tax Commission. ATI Summary and Calculations.

Representative Lake asked if the 3% budget increase shown under number 1 includes what the taxing districts could move over to the foregone balance. **Mr. Nelson** said that he would explain this further in his presentation. He stated that the $14.2 million in net combined foregone balance is not included in the $67.6 million under item number 1.

Mr. Nelson explained that #2 is the new construction or annexation value. He said that only about $3 million of the $93 million is annexation. The value of new construction and annexation is multiplied by the previous year's tax rate (except for schools).

Mr. Nelson noted that non-school districts were actually paying off their bonds and voter approved levies faster than they were approving new ones during this time period.

In response to a question from a committee member, **Mr. Nelson** said that he would get information regarding the breakdown of new construction and how much is residential and commercial for the committee. He said most new construction is probably going to be residential.

The chart on the following page shows an example based on a proposal that was presented to the legislature this year for a $4.7 billion statewide tax exemption and what the property tax shift would have been in 2005. **Mr. Nelson** said that he had to estimate the 2005 tax values as well as the taxes.

Addn'l Targeted Homeowners Ex.	**BEFORE**	**EXEMP. IMPACT**	**AFTER**
	Est. Value		Est. Value
Owner-Occupied Residential	$34.1B	($4.7B)	$29.4B
All Other Property	$48.3B	N/A	$48.3B
TOTAL VALUE	**$82.4B**		**$77.7B**
	Est. Tax		Est. Tax
Owner-Occupied Residential	$533.8M	($43.6M)	$490.2M
All Other Property	$673.8M	+ 43.6M	$717.4M
TOTAL TAX	**$1,207.6M**		**$1,207.6M**
	Tax Rate		Tax Rate
Owner-Occupied Residential	1.565%	+ 6.5%	1.6667%
All Other Property	1.394%	+ 6.5%	1.4846%
AVERAGE RATE	**1.465%**		**1.5535%**

Note: In the second and future years the exemption would continue and grow with qualified applicants. Also, beginning the second year, a property tax impact on the value driven public school M&O levy would be an estimated \$4.7B X 0.358% = (\$16.8M). This property tax reduction would lessen the tax shift impact, but it would still continue.

Mr. Nelson said that proposal was to expand that homeowner's exemption for people 70 years of age or older with owner occupied residential property. This would have given them a \$200,000 home exemption. This would mean that group of people would have \$4.7 billion less value to be taxed. All other properties would still have the same value but overall, there is less taxable value because of that exemption. **Mr. Nelson** stated that if the same amount of tax is still being collected, all other property will make up the difference. This would have actually increased all other property owner's tax rate by 6.5%.

Representative Jaquet said that, in her opinion, the problem with this example is that is shows what would happen right now but has not been adjusted for what has been happening over the last few years when more tax has been shifted to residential property. She asked if there is a way to show that the 6.5% increase would help rectify what has been happening in the past. **Mr. Nelson** said this example does include the present day mix of what is residential and other types of properties. He said he used 2004 and expanded it. He said it would be fairly difficult to break it down further.

Representative Jaquet said that, in her opinion, there has already been a shift and she said that the committee needs to understand this and try to find ways to balance out what has already occurred. Since a shift has already occurred, **Representative Jaquet** stated that increasing the homeowner's exemption might be a viable option. **Mr. Nelson** said there are many variables as to why there has been a shift to residential. **Representative Jaquet** pointed out that people are concerned about this and that they realize they are paying a bigger portion of property taxes. She said it is important for the committee to have numbers going back further to show what has happened in the past to cause this shift. **Mr. Nelson** said he would get that information for the committee with help from the Tax Commission and the counties.

Mr. Nelson provided the following to charts showing examples of 2004 Property Tax Budgets and Public School Property Tax Budgets for three counties in the state. His complete presentation includes examples from nine counties and cities throughout the state.

EXAMPLES - 2004 PROPERTY TAX BUDGETS

(Does not include State, Federal or Fee Revenues)

	# of 2004 Tax Levy Districts		37		35		46
	COUNTY	**% Change**	**ADA**	**% Change**	**BINGHAM**	**% Change**	**KOOTENAI**
	County Taxable Value (September 2004)		$21,888,673,044		$1,211,453,700		$7,528,170,197
1	**Highest last 3 yrs. non-exempt budget**		**$57,306,352**		**$6,534,022**		**$24,889,939**
2	**Above x 3%**		**$1,719,191**		**$196,021**		**$746,698**
	New Construction Value		$873,994,109		$22,730,590		$261,269,555
	Previous year non-exempt rate		0.002747397		0.005226623		0.003652017
3	**Product (New construction x rate)**		**$2,401,209**		**$118,804**		**$954,161**
4	**Available Foregone Amount**		**$1,807,240**		**$731,579**		**$847,717**
* 5	**Maximum Allowable Budget (row 1+2+3+4)**	**10.3%**	**$63,233,992**	**16.0%**	**$7,580,426**	**10.2%**	**$27,438,515**
6	Less Property Tax Replacement (ag. equip./option tax/other)		$37,975		$413,387		$1,217,915
7	**Maximum Allowable Budget For Levy**	**10.3%**	**$63,196,017**	**9.7%**	**$7,167,039**	**5.3%**	**$26,220,600**
8	Non-exempt budget taken	9.2%	$62,594,612	-3.1%	$6,331,813	5.3%	$26,220,600
9	Plus Exempt Voter Approved		$0		$0		$0
10	**TOTAL PROPERTY TAX BUDGET (row 8+9)**		**$62,594,612**		**$6,331,813**		**$26,220,600**
	Carryover Unused Foregone (row 7-8)		$601,405		$835,226		$0
	Current year non-exempt rate		0.002859680		0.005226622		0.003482997
	2003 Population	1.7%	325,151	1.3%	42,926	2.8%	117,481
	CITY		**BOISE**		**BLACKFOOT**		**COEUR d'ALENE**
	City Taxable Value (September 2004)		$13,233,005,001		$225,854,526		$1,911,922,596
1	**Highest last 3 yrs. non-exempt budget**		**$71,691,836**		**$2,422,654**		**$9,872,224**
2	**Above x 3%**		**$2,150,755**		**$72,680**		**$296,167**
	New Construction Value		$239,058,310		$4,162,392		$69,157,670
	Annexation Value		$253,715,799		$122,605		$11,457,625
	Previous year non-exempt rate		0.005559237		0.011626734		0.005698830
3	**Product (New constr. + Annex. x rate)**		**$2,739,448**		**$49,821**		**$459,413**
4	**Available Foregone Amount**		**$2,624**		**$223,282**		**$1,003,096**
* 5	**Maximum Allowable Budget (row 1+2+3+4)**	**6.8%**	**$76,584,663**	**14.3%**	**$2,768,436**	**17.8%**	**$11,630,900**
6	Less Property Tax Replacement (ag. equip./option tax/other)		$1,303		$1,345		$461
7	**Maximum Allowable Budget For Levy**	**6.8%**	**$76,583,360**	**14.2%**	**$2,767,091**	**17.8%**	**$11,630,439**
8	Non-exempt budget taken	6.8%	$76,583,360	6.3%	$2,575,000	7.7%	$10,627,804
9	Plus Exempt Voter Approved		$0		$0		$0
10	**TOTAL PROPERTY TAX BUDGET (row 8+9)**		**$76,583,360**		**$2,575,000**		**$10,627,804**
	Carryover Unused Foregone (row 7-8)		$0		$192,091		$1,002,635
	Current year non-exempt rate		0.005787299		0.011401145		0.00558699
	2003 Population	0.2%	190,117	1.1%	10,646	2.1%	37,262

	PUBLIC SCHOOL DISTRICT EXAMPLES - 2004 PROPERTY TAX BUDGETS (Does not include State, Federal or Fee Revenues) - but line 10 does						
	PUBLIC SCHOOL DISTRICTS	**% Change**	**BOISE S.D. #1**	**% Change**	**BLACKFOOT S.D. #55**	**% Change**	**CDA S.D. #271**
	School District Taxable Value (September 2004)		$13,033,253,557		$504,002,132		$4,306,709,132
1	**Highest of last 3 yrs. tort, tuition funds**		**$416,891**		**$62,369**		**$131,502**
2	**Plus 3% x Above**		**$12,507**		**$1,871**		**$3,945**
	New Construction Value		$282,290,760		$8,334,146		$154,405,485
	Previous year tort, tuition rate		0.000032417		0.000130311		0.000034234
3	**Product (New Const. x rate)**		**$9,151**		**$1,086**		**$5,286**
* 4	**Max. Allowable Tort, Tuition Budget**	**5.2%**	**$438,549**	**4.7%**	**$65,326**	**7.0%**	**$140,733**
5	**Tort, Tuition Property Tax Budget Taken**	**2.6%**	**$427,730**	**4.7%**	**$65,326**	**7.0%**	**$140,733**
1	**Previous Year Maximum Allowable M&O Budget**		**$86,275,744**		**$1,521,138**		**$12,070,869**
	Actual or Adj. Prev. Yr. 12/31 Tax. Val.		$12,685,026,898		$516,763,106		$4,372,253,698
	General M&O rate		0.00664167		0.003		0.003
2	Product (Previous year T.V. x M&O rate)	-2.3%	$84,249,763	1.9%	$1,550,289	8.7%	$13,116,761
3	Less Property Tax Replacement (ag. equip./other)		$5,484		$42,134		$3,762
* 4	**Maximum Allowable Property Tax M&O Budget**	**-2.4%**	**$84,244,279**	**-0.9%**	**$1,508,155**	**8.6%**	**$13,112,999**
5	**Plus Supplemental M&O (by voters)**		**$10,708,000**		**$975,000**		**$5,065,550**
6	**Plus Plant Facility Building (by voters)**						**$5,850,000**
7	**Plus Emergency (New Students Over Forecast)**		**$0**		**$0**		**$980,263**
8	**Plus Bond (by voters)**		**$8,080,617**		**$1,165,717**		**$1,931,077**
9	**TOTAL PROPERTY TAX (with tort, tuition levies)**		**$103,460,626**		**$3,714,198**		**$27,080,622**
	Current Year Total Tax Rate		0.007938204		0.007369406		0.006288008
10	**Overall General M&O Amount (from L-2 Bdgt. Sheet)**	**2.5%**	**$182,458,913**	**4.0%**	**$21,191,631**	**9.3%**	**$45,108,531**
	Average Daily Attendance (A.D.A.)	-0.6%	**24,555.97**	0.7%	**3,937.95**	2.5%	**9,182.24**

Mr. Nelson provided the following list of considerations for property tax relief. The list is not in priority order.

1) What is the property tax used for?
2) Who is paying for these local services?
3) Who should be paying for the services? And what tax/fee?
4) Which services are the most logical for property tax? Which are least?
5) Which taxing districts and services are the biggest share and increasing the most in growing areas? Which in slower growing areas? Which in recreational areas?
6) Is the need for property tax relief greater for senior homeowners, disabled, young families, renters, businesses/personal property owners, low income, all property taxpayers, higher growth areas, slower growth areas, etc.?
7) Are local property tax budgets growing too rapidly statewide or only in parts of Idaho?
8) What is happening with state and federal intergovernmental revenue sharing (state sales tax, liquor tax, fuels tax, PILT, NFS forest reserve funds, state paid public school funding, etc.)? And, are some areas more advantaged by these revenues than others?
9) What is happening with local service fees and growth in fee revenues?
10) What is happening with current local option (resort city and county) non-property tax revenues?
11) Is a short-term (band-aid) fix adequate or longer-term property tax relief effort?
12) What in Idaho's law allows property taxes to increase? (A.V. and budget)
13) What is happening with state paid property tax relief (circuit breaker program/agricultural personal property tax relief)?
14) New construction growth and overall taxable value trends and mix that is residential,

commercial/industrial, other?

15) Do property tax deferral or reverse mortgage programs need more consideration?
16) Idaho compared to other property tax systems and property tax relief?
17) Will property tax relief improve the overall Idaho tax system and tax burden?
18) Is the ability to deduct property taxes for income tax itemizers a consideration?
19) Should Idaho remove any property tax exemptions?
20) Taxpayer expectations and recognizing fiscal reality (federal, state and local). Are we seeking too many governmental solutions, when we should be asking our elected officials to set priorities, say no and better manage expectations?

Representative Lake said that it was his assumption that when the 3% cap was instituted, taxing districts were imposing different tax rates. In other words, taxing districts were actually locked in to a lower or higher rate at the time the 3% cap became law. He said that as time has elapsed those that had high tax rates at that time, have actually grown faster than lower tax rate areas. **Mr. Nelson** said that was probably true. He said this was an advantage, especially in areas that are growing.

Senator Goedde said that when the personal property tax exemption for agricultural property was passed, it was suggested that override levies for schools would be easier to pass. He asked if any data was available to show whether or not this happened. **Mr. Nelson** said they did keep that information for a few years and said that if **Mr. Hill** did not have the information today, he would get it for the committee.

Mr. Ted Spangler, State Tax Commission, was introduced to give a summary of significant Idaho Constitutional provisions relating to property taxation. This complete presentation will be available as an attachment to these minutes at: www.legislature.idaho.gov.

Before he began his formal presentation, **Mr. Spangler** explained, in response to a question about the tort levy that had been asked earlier, that it was put in place to allow cities and counties with taxing districts to be able to pay judgments. It is also used to pay premiums for insurance that would cover those judgments in the event that ever happened. It is his understanding that most of the money going through the tort levies today is for those insurance premiums, not to actually pay the judgments. He said that he would find out whether moneys in this fund can be accumulated to pay future charges.

Mr. Spangler started his presentation with the basic premise that the Idaho Constitution is not a delegation of enumerated powers, it is a limitation on power that the State Legislature can exercise. As a general rule regarding the tax provisions, if the constitution does not prohibit it, than it falls within the Legislature’s primary power. This may be limited by federal laws as well. **Mr. Spangler** said that most of what his presentation includes is what the Legislature cannot do. Another way to look at that is that his presentation can be seen as distinguishing between the types of property tax revisions that can be taken by legislation as opposed to those that require constitutional amendments.

He said the two specific sections of the state constitution are very important to the underlying limitations and theories that govern property tax in Idaho. The first is Article VII, Section 2.

, **Idaho Constitution**
Article VII. FINANCE AND REVENUE
Section 2 Revenue to be provided by taxation.

The legislature shall provide such revenue as may be needful, by levying a ***tax by valuation****, so that every person or corporation shall* ***pay a tax in proportion to the value of his, her, or its property****, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation.*

Mr. Spangler explained that the way this is written, it is a prohibition against doing this any other way.

Mr. Spangler explained the two principles of Article VII, Section 2 that he will focus on are **a tax by value** that is **paid in proportion to the value of the property.**

For Article VII, Section 5, which states:

, Article VII. Finance and Revenue
Section 5 Taxes to be uniform — Exemptions

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax*, and shall be* ***levied and collected under general laws****, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that* ***the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just****, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that* ***duplicate taxation of property for the same purpose during the same year, is hereby prohibited.***

Mr. Spangler explained that his focus in this section includes the following:

, 1. Uniform on the same class of subjects within the taxing district's limits of the authority levying the tax.

He said that the authority levying the tax includes counties, cities, school districts and any other entity that levies its taxes. This is talking about uniformity within the boundaries of each of those taxing districts under this provision.

, 2. Levied and collected under general laws.

This provision means that laws enacted by the legislature that apply generally across the state. It means that counties and cities do not enact ordinances stating how they will do property taxation in their district, these are governed by laws passed by the legislature. **Mr. Spangler** said that is a minor exception to this.

, 3. Just valuation of all property.

, 4. Legislature may allow exemptions as seem necessary and just.

Mr. Spangler said that this phrase seems to be an affirmative grant of authority but that it is actually an exception to the prohibition. The prohibition is that property tax must be done uniformly by general laws with proportion to value but that does not undermine the ability to create exemptions.

, 5. Double taxation is prohibited.

Mr. Spangler pointed out that, in the constitutional sense, double taxation is a much narrower concept than what most people think of.

Below are opinions of the Idaho Supreme Court relating to the items above. **Mr. Spangler** stated that the Supreme Court is the arbiter of what the constitution means and how it applies.

The concept of "Value" and "Just valuation of all property":

In our opinion the valuation of taxable property for assessment purposes must reasonably approximate the fair market value of the property in order to effectuate the policy embodied in Id. Const. Art. 7, § 5. I. e., that each taxpayer's property bear the just proportion of the property tax burden. . . .

Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method. An arbitrary valuation is one that does not reflect the fair market value or full cash value of the property and cannot stand,

***Merris v. Ada County* 100 Idaho 59 (1979).**

Mr. Spangler said the underlying point in this is that the Supreme Court has interpreted "value" as "fair market value". This is a result of a long line of State Supreme Court decisions.

The statement "Uniform on same class of subjects within the taxing district's limits"

A constitutional rule of uniform ad valorem taxation forbids legislative classifications of property for the purpose of imposing a greater burden of ad valorem taxation on one class than *on another; that is, all property* ***not exempt from taxation*** *must be assessed at a uniform percentage of actual cash value, and a single fixed rate of taxation must apply against all taxable property.*

[T]he uniformity clause of Art. VII, § 5, of the Constitution, as well as the due process clause of the United States Constitution, prohibits the singling out of one taxpayer's property for more burdensome taxation than applies to like property within the taxing jurisdiction.

Idaho Telephone Co. v. Baird**, 91 Idaho 425, 423 P.2d 337 (1967).**

Mr. Spangler said that the uniformity clause of the state constitution prohibits the singling out of one taxpayer's property for more burdensome taxation that applies to like property.

The term not exempt from taxation means that all property not exempt from taxation must be assessed at a uniform percentage of actual cash value and a single fixed rate of taxation must apply against all taxable property.

"Paid in proportion to the value of the property", according the Idaho Supreme Court means:

*We interpret the language of Art. VII, 2 - 'every person * * * shall pay a tax in proportion to the value of his, her, or its property * * *' - as meaning that every property owner shall receive equal treatment under the ad valorem tax laws; for example, if owner A possesses $100.00 of property which is taxed $1.00, then owner B with $400.00 of taxable property shall be taxed in the same proportion, or $4.00.*

Idaho Telephone Co. v. Baird**, 91 Idaho 425, 423 P.2d 337 (1967).**

The State Supreme Court has said that *proportionate taxation cannot exist without uniformity of assessment.*

Chastain's Inc. v State Tax Commission **72 Idaho 344 (1952)**

In other words, the assessment for valuation of properties and the use of appraisal techniques to reach market value is an integral part of establishing a uniform provision.

Mr. Spangler explained that the following charts show two significant Idaho Supreme Court decisions that deal with the concepts of uniformity and proportional value and the concepts of exemptions and how they play together.

Mr. Spangler said that Idaho Telephone Co. V. Baird is a 1967 decision that dealt with a system of assessment ratios the Idaho Legislature came up with in 1965 regarding property taxation. These ratios were used to classify property, tax it uniformly and try to tax uniformly on all classes property.

Idaho Telephone Co. v. Baird

Assessment ratios per 1965 law:
Real property assessed at 10% of full cash value
Personal property assessed at 20% of full cash value
Operating property assessed at 30% of full cash value.
Thus:

	Market Value	Ratio	Assessed Value	Tax Levy	Tax
Real Property	$100,000	10%	$10,000	1%	$100
Personal Property	$100,000	20%	$20,000	1%	$200
Operating Property	$100,000	30%	$30,000	1%	$300

This statute required that the assessor or tax commissioner reduce the value by the ratio so the assessed value against which the levy applied was much reduced and different amount. To which a uniform levy was applied. **Mr. Spangler** stated that the contentions that were made were that the tax levy was uniform at 1% on the taxable value of all property and that all property in the same class must be taxed uniformly. The Supreme Court rejected those contentions saying this was not uniform taxation on the same class of subject. They stated that "although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for ad valorem tax purposes is the fair market value of that property." In other words, property classifications are for appraisal purposes and are to facilitate - not avoid - taxing property proportionally to its market value.

The principles in Idaho Telephone Co. v. Baird were that all property not exempt from taxation must be assessed at a uniform percentage of actual cash value and that a single fixed rate of taxation must apply against all taxable property. **Mr. Spangler** noted that the single fixed rate is that applied by the taxing district that is levying the tax such as the city or county.

What about exemptions? According to the Supreme Court:

Article 7 § 5:
[T]he legislature may allow such exemptions from taxation from time to time as shall seem necessary and just. . . .

This extremely broad and deferential language in no way suggests property may be wholly, but not partially, exempt.

***Simmons v Idaho State Tax Commission*, 111 Idaho 343 (1986)**

Mr. Spangler said that this is the case that upheld the constitutionality of the 50/50 homeowners exemption.

Simmons v Idaho State Tax Commission

Homeowners exemption as in 1983:

Lesser of 50% or $50,000 of value of owner occupied residential improvement.

Improvement	Market Value	Exemption	Taxable Value	Tax levy rate	Tax
Residential	$100,000	$50,000	$50,000	1%	$500
Commercial	$100,000	0	$100,000	1%	$1000

The plaintiffs in this case asked what is the difference between that and the assessment ratios that were prohibited in the Idaho Telephone Company v Baird case in 1967. The mathematics are exactly the same. The Supreme Court answered that "while the effect of initial assessment of owner-occupied residential property at rates differing from income producing property may differ little in substance from an initial uniform assessment of both properties, followed by a partial exemption of the residential property, the state constitution contemplates such a distinction."

Mr. Spangler said that the Supreme Court affirmed the Legislature's use of exemption power to accomplish a result that is mathematically indistinguishable from a result that the Legislature was prohibited from accomplishing by using systems that deal with the valuation of property. **Mr. Spangler** stated that this boils down to the Legislature using the right combination of words in the legislation enacted so that they are exercising their constitutional power to allow exemptions and does not appear to be taking the prohibited action of restricting the way property is valued.

Mr. Spangler pointed out that as we discuss the constitutional implications on the property tax system the tax shift phenomenon is driven in large part by this requirement for uniformity. This means that when some property is exempted, then the tax burden gets spread ratably on all other taxable property. One way to prevent this tax shift is to replace the money lost by the exemption with money from outside of the property tax system. **Mr. Spangler** said that one example of this is that money that was lost due to the agriculture equipment exemption was replaced with money from the state general fund.

Another way to prevent the tax shift is to reduce the amount of tax to be collected and force the county and other taxing districts to absorb the difference.

If tax reduction means reducing the total overall tax burden paid by all taxpayers, according to **Mr. Spangler,** within the confines of this system, these two options or some combination of those options are possible solutions.

Mr. Spangler said that some people may not see the shift as a bad thing. It depends how tax reform is interpreted. If tax reform means redistributing the tax burden, then the tax shift becomes a tool that potentially permits that to happen.

Mr. Spangler's complete presentation showed some examples of how these requirements of proportionality and uniformity have worked with regard to some actual proposals, including variations of the 1% proposal. These will be available as attachments to these minutes at: www.legislature.idaho.gov.

In response to a question from **Representative Lake, Mr. Spangler** explained that the definition of "class" or "who is in the class" getting the exemption needs to be rationally related to some legitimate legislative purpose. He said that in the Simmons case the Supreme Court said it was rational for the legislature to say tax relief needs to be given to owner-occupied homes. As long as there is a way to articulate a rational legislative basis, it would be allowed. **Senator Werk** said that legislation proposed last year created an exemption for people over 70 years old. He asked how it is decided whether that is rational. **Mr. Spangler** said that the attempt is that the Supreme Court should give deference to the Legislature's ability to set rational policies even if, the Justices individually might not agree. It is only the purely arbitrary classifications that are outside of legitimate constitutional powers. He stated that age classifications happen all the time and it is almost always arbitrary at the edge of the age limit. As long as the rest of the argument is rational, they are is usually allowed.

Mr. Spangler pointed out that the Supreme Court is practical about what is uniformity. They recognize that absolute mathematical perfection is not the goal of uniformity.

Mr. Spangler went on to discuss Double Taxation and explained that for property tax purposes this means taxing the same property twice during the same year for the same purpose. An example of this would be taxing both the owner and the lessee of the same property in the same year. Imposing a property tax on property, while requiring the owner of the property to pay some different tax, a license tax or sales tax, is not double taxation. Overlapping levies by cities and counties are not double taxation.

Mr. Spangler said that Article VII, Section 8 of the Idaho Constitution is very confusing to people. He explained that it means that the Legislature cannot barter away, by contract, the sovereign power to tax corporations. In 1890, this was a problem. This requires the Legislature to retain to itself the right to exempt or repeal exemptions on property owned by corporations.

Article VII, Section 6 states:

"The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by law invest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation."

Mr. Spangler said this means that the general laws that Article VII, Section 5 requires set out a general process by which property taxes are levied and collected but that those general laws themselves do not levy the tax. The Legislature authorizes local governments to levy property taxes but the local government imposes them by exercising that authority.

Mr. Spangler said that Article VII, Section 6 also makes some property constitutionally exempt from taxation as follows:

"The property of the United States, except when taxation thereof is authorized by the United States, the state, counties, towns, cities, villages, school districts, and other municipal corporations and public libraries shall be exempt from taxation; . . . "

This section applies to property tax, not other taxes and applies to properties owned by governments. It does not apply to property leased by governments or possessory interests in governmental property.

Representative Jaquet asked for a list of all of the existing exemptions that contained a very short explanation of the rationale behind them. **Mr. Spangler** said he would try to get that for the committee.

Representative Jaquet said that the court have been very clear that the constitution mandates "fair market value". She asked why the court has not mandated that the state have sales price disclosure. **Mr. Spangler** said in his opinion this is a legislative issue, not a judicial issue. The court could review legislation on that issue.

In response to another question from **Representative Jaquet, Mr. Spangler** said that the income approach is one method of appraisal as opposed to comparative pricing or a cost approach. It is an acceptable appraisal method within the appraisal profession for the purpose of trying to determine the fair market value of property. The idea is that whatever combination of appraisal method are used, the bottom line goal is to determine fair market value.

The committee next discussed holding public hearings throughout the state.

Representative Deal moved that the committee visit the following 12 cities to hold public hearings regarding property tax issues. Senator seconded and the motion carried unanimously by voice vote.

The following schedule was decided upon.

Property Tax Interim Committee Meeting Sites

1. Sandpoint 1:00 p.m. July 27 Sandpoint High School Auditorium
2. Coeur d'Alene 7:00 p.m. July 27 Best Western Coeur d'Alene Inn/Conference Center 414 W. Appleway
3. Moscow--University of Idaho 1:00 p.m. July 28 Whitewater Room, University Commons
4. Lewiston--Lewis Clark State College 7:00 p.m. July 28 Meriweather Lewis Hall Room 100 7th Avenue and 5th Street, adjacent to the college library
5. Hailey Rotary Room 301 and 302 1050 Fox Acres Road--Hailey August 10 1:00 p.m.
6. Twin Falls--Room 276-277 Taylor Building College of Southern Idaho August 10 7:00 p.m.
7. Pocatello 1:00 p.m. August 11 Salmon River Suite Student Union Building, Idaho State University.
8. Rexburg 7:00 p.m. August 11 Cottontree Inn Conference Room 450 W. 4th South Rexburg.
9. McCall 1:00 p.m. August 24 McCall Golf Course 1001 Reedy Lane Directions from downtown McCall turn right on Park
10. Emmett 7:00 p.m. August 24 City Council Chambers 501 East Main St.
11. Boise 1:00 p.m. August 25 Boise City Hall Council Chambers
12. Nampa 7:00 p.m. August 25 Nampa City Hall City Council Chambers

In response to a question from **Senator Goedde** regarding fair market value reflecting a rolling average, **Mr. Spangler** said that a way to craft such a thing would be to find the portion of fair market value that would be exempted. This may be the difference between some sort of rolling average and a fair market value. This is similar to what happens with the speculative agricultural exemption. The property is still valued at its full market value, then it is valued based on what its current income is and the difference is exempted.

Mr. Dan Chadwick, Idaho Association of Counties was the next speaker. He was introduced to discuss the role of counties in the property tax system. He distributed a booklet published by the Idaho Association of Counties explaining Idaho's property tax system.

Mr. Chadwick explained that county government is the administrative arm in turning out whatever policy the Legislature creates for property taxes. The counties set values with the exception of operating property by the first Monday in June. In September the levies are set by the Board of County Commissioners for all taxing districts and then the counties actually collect the property taxes. He suggested rotating the responsibility for collecting that taxes between the cities, counties and schools to even out who property tax payers blame for high taxes.

Mr. Chadwick said this is a question of process versus policy. He said that many of the issues discussed earlier are issues they feel need to addressed. He said he was pleased with the fact that **Senator Goedde** mentioned the rolling average. In **Mr. Chadwick's** opinion, this needs to be on the table to see if it is workable. It may take out the huge spikes in property value.

Mr. Chadwick stated that the 20 points **Mr. Nelson** gave the committee are good starting points for the committee to look at. He said that those points are great perspectives in terms of the property tax system, what the process should be like and what the policy should be like. He said both the process and the policy need to be looked at by the committee.

Mr. Chadwick informed the committee that there is an initiative that is being proposed. He said that the website: www.idahopropertytaxreform is where this information is located but there is no actual initiative stated yet. He said that at a conference he attended a presentation was made by the proponents of this initiative. He said they have been advised that the initiative will be somewhere between 90 and 100 pages long and will include a complete rewrite of the property tax system in Idaho. The process to gather the signatures has not begun at this time. He said that the counties are not a proponent of this particular initiative. Once they hear from the Nez Perce County Clerk, which is where this is going to start, **Mr. Chadwick** thinks they will be able to review what the initiative actually says. **Mr. Chadwick** said that from the numbers they are hearing, if this initiative should pass as speculated, there will be $300 to $400 million loss in revenue for the operation of local government.

The value issue has got everyone's attention. Idaho has a red hot real estate market and property values that are going crazy in some areas. County assessor's have the obligation to determine fair market value and they have the tools to do that with. **Mr. Chadwick** stated that on the other hand the State Tax Commission is assigned to make sure the counties are complying with the law. He said that if the counties do not keep current on value, the Tax Commission has the authority to take sales tax revenue away until compliance is met. This is not just county sales tax revenue, it is every taxing district's sales tax revenue. In response to a question from **Senator Little, Mr. Chadwick** said that this actually happened in Lemhi County a few years ago and another county is currently being told to get in compliance or it will happen to them.

Representative Jaquet asked how the Tax Commission would know if the counties were in compliance when they do not have sales price disclosure. **Mr. Chadwick** said the Tax Commission monitors the actions of the county assessor and looks at the trends and ratio studies as well as the markets. He said he thinks full disclosure is an appropriate tool to make sure that actual market value is reached.

Mr. Chadwick suggested that we stop looking at the "exemption of the day" approach to property taxes. In his opinion that has gotten the state into trouble. When a county has failed in terms of determining market value, the reaction has been to enact another law with regard to exemptions. In **Mr. Chadwick's** opinion, the rural homesite exemption is one of these types of exemptions that was a bad reaction to missteps by counties in achieving fair market value. He stated that this committee has an opportunity to stop that kind of approach.

He said that as the administrator of the property tax system, they are hearing that the status quo is not going to be ok. Property owners are expecting relief and they are telling their county elected officials and legislators. The question is what is the nature of the relief that can make the system fair and balanced. In his opinion a fair and balanced system for all property taxpayers in the state is an important part of what this committee will be doing.

Mr. Chadwick listed the following issues that had been discussed earlier or that the counties had discussed as being important:

, Increasing the homeowner's exemption, including the land
, Increasing or expanding the circuit breaker
, The five year rolling average
, Ten year value freezes

In response to a question from **Representative Lake** regarding value freezing**, Mr. Chadwick** said that it is his understanding that if someone has lived in their home for ten years, the value ceases to go up after that. This would mitigate and limit the increases that would occur on that property. **Representative Lake** asked if that had to be done without a constitutional amendment. **Mr. Chadwick** said he did not think so due to the uniformity provision.

, Deferred taxes

He stated this is not a preferred solution but it is something that needs to be considered.

, Property value increases
, Redefining what value is
, Capping expenditures

In speaking for the counties, **Mr. Chadwick** stated that it is not enough to say quit spending so much money, the county only does what the Legislature tells them. It is up to the Legislature to tell them where to stop the expenditures. This could include indigent care, the courts, juveniles, law enforcement and jails, elections and so on.

Senator Keough noted that the Legislature does not mandate what counties pay their employees or their personnel costs. She said that while there is some state impact on what the counties do, there are also parts of the budget that are strictly controlled by the counties. She asked how the counties are handling those costs. **Mr. Chadwick** agreed that the state does not mandate salaries or benefits for counties. The counties have to manage that locally based on the revenue they receive. Many counties are cutting back on health care benefit packages because the additional revenue they are receiving is not sufficient to keep providing it at the same level. This all depends on what county you are in.

, Alternate revenue sources

Mr. Chadwick said the counties would be happy if the committee would look at using local option taxes as an alternative to property taxes. He added that he did not expect that to happen.

He offered to provide the committee with any information they might need to help them with the issue of the property tax system.

Mr. Chadwick explained that last year the Association of Counties surveyed 18 states and two provinces to look at their systems to determine how Idaho fits in comparison. This survey looked at the percentage of tax as a proportion of the taxes collected, what is being used for education versus other programs, the amount of tax burden based upon income as well as the average tax rate. He said there is a substantial amount of detail for the committee to use to see where Idaho fits within those surveyed. He said that this will be made available to the committee at a later date.

Mr. Chadwick said that in addition to the Public Relations Guide, the Association of Counties has produced an eight minute video for citizens to look at dealing with property taxes. This is on their website.

In response to a question from **Representative Jaquet, Mr. Chadwick** said that to be a county assessor, they need to be a qualified elector of a county and 21 years of age. There is a substantial amount of training that is required by law and by rule of the State Tax Commission that all assessors and assessing personnel must go through.

Alex LeBeau, CEO of the Idaho Association of Realtors, was the next speaker. He distributed a memo that will be available as an attachment to these minutes at: www.legislature.idaho.gov. He introduced John Eaton, the Association's Governmental Affairs Director and Jill Stone, President of the Association.

Mr. LeBeau said that the memo gives an overview of some of the impacts of the property tax system on the real estate market. He explained that the real estate market is more than just residential or investment residential real estate.

Mr. LeBeau said that in the opinion of the Association most of the pieces of legislation from last year deal with the issue of property tax shifts or increasing the exemption on residential real estate in a variety of different ways. He stated that the Association of Realtors has sound reasons for opposing this. They represent people that not only sell residential real estate but also investment real estate, secondary homes and other property that does not get this same exemption. In his opinion, any time taxes are shifted, more liability is pushed off on someone else.

This memo also contains several items the Association supports. **Mr. LeBeau** said that one of the major issues that was discussed this morning and could be a possible solution is the circuit breaker. He said that if adjustments could be made to the circuit breaker to make it more equitable across the board, it could be a good solution.

As an option, the National Association of Realtors does a housing affordability index that is based on how much the median value of a particular property is in a certain area versus the person's income. This is used to determine whether people in that particular market can afford to continue to purchase or sell real estate in that market. He explained that nationwide it is assumed that people have about 30% more on average than they need to purchase the average home. Once that drops housing affordability problems arise.

Mr. LeBeau said that another statistic that impacts Idaho specifically is the fact that 75.4% of the real estate in Idaho is owner-occupied, the national average is 69.1 making Idaho 5th highest in the country in terms of people owning their own homes. This certainly has an impact when talking about the availability of homes and is part of the reason we are feeling such a pinch in terms of the amount of inventory that is available to sell. This translates into supply and demand and causes prices to go up.

Mr. LeBeau said that across the state of Idaho, there is a lot of money pouring in from all over the country. This is because property is still relatively inexpensive compared to other areas. He said that for investment real estate or income properties there is normally about a 10% return. People have so much money to spend for investments, they are willing to accept an 8% return or lower. They are willing to do this because of the extraordinary rises in value due to the lack of inventory available. They then buy something else and do not pay the capital gains on the investment real estate. He said that has to do with the fact that the country virtually eliminated capital gains on residential real estate. That exemption caused about a $2 trillion of wealth in this country that can now be invested.

Mr. LeBeau said that property taxes are major issues for those that see them, pay them and get them. There is no question that if someone owns their property outright and have for many years, a bill for property taxes is upsetting. He said if people paid sales tax in a lump sum, they would probably be upset about that also. He added that, in his opinion, people should be aware of the amount of taxes they are paying because it forces government to be accountable for every dollar they spend.

Mr. LeBeau stated that another important component is the deductibility of property tax. He said that shifting the deductibility of a tax raises the net amount of taxes a person.

Mr. LeBeau said that people need to understand and remember that the budgets are what is driving the amount of tax that ultimately paid. The valuation is there to determine what an individual's equitable share is. If people really want to lower their property tax without shifting the burden to someone else, they need to deal with the actual budgets. According to **Mr. LeBeau,** education is a critical element of how the property tax system works. In looking at a variety of other states Idaho's system is not that bad.

Senator Little asked how many of the residential homes that are owned in Idaho are owned by people who are buying them to avoid capital gains and then selling the homes at a profit. **Mr. LeBeau** said he would try to get that information for the committee.

In response to a question from **Senator Langhorst, Mr. LeBeau** said that the Association of Realtors was initially opposed to the 50/50 homeowners exemption. This is because the members of the association sell more than residential real estate. The homeowners exemption redistributes that tax burden to other areas.

Senator Goedde commented that classes are being held in California on how to make money in real estate and they are advising their clients to invest in Idaho. He said that some subdivisions in his county are 70% non-owner occupied residential.

In response to another question from **Senator Goedde** regarding the association's stand on mandatory disclosure of sales prices**, Mr. LeBeau** said that the association said they would not oppose the last piece of legislation proposing sales price disclosure that was presented by the counties.

Representative Jaquet suggested the association research the possibility of regulation on banks with regard to reverse mortgages. She thought they were quite economical but recently learned the fees were quite high. **Mr. LeBeau** said that he would do that.

Mr. Tim Hill, State Department of Education was introduced to discuss school levies and how they react with state funding. He distributed four handouts that will be available as attachments to these minutes at www.legislature.idaho.gov.

His first handout shows revenues from all sources including taxes, other state sources, federal sources, bond proceeds and total revenue since 1995. In FY2004 the Department of Education received $479,075,968 from property tax. Of that amount $261,984,522 went to local maintenance and operation (M&O) with the remainder being split between Supplemental (Override), Emergency, Tort, COSSA, Bonds and Plant Facilities.

Mr. Hill next showed the amount of property tax and state sources education receives because many people have asked how that mix has changed over the years. FY1995 was the last year that the property tax levy rate was .004%. At that point the mix was roughly 30% local property tax and about 70% state. In FY1996 after the levy rate was reduced to .003%, the mix changed to 27% local and 73% state. In FY2004 that mix has changed to over 32% from local property tax and 68% state.

Mr. Hill went on to discuss the detail of what makes up the $479,075,968 property tax amount on line a in his handout. Another handout explains the statutory requirements for each of the levies and the effects on school funding. The first item is local M&O. This is a function of market value. It is not subject to a 3% cap each year and is a multiplier effect. This means 3/10 of one percent is applied to the higher of the prior year end actual or adjusted market value minus appropriate agriculture replacement money. In most cases adjusted market value is equal to actual or higher. In September these amounts are certified to the counties. The levy rate is a function of this September value. His handout titled *Tax Levies for School Purposes* shows this in detail.

The next item that makes up the property tax figure is supplemental or override levies. These require an election with a simple majority and have no dollar limit with a term limit of up to two years. Another handout *Supplemental Levies* gives a history of supplemental levies back through 1993. **Mr. Hill** stated that there is fair evidence that the dollar amount and the number of school districts will increase in FY2006.

Mr. Hill explained that the next item, emergency levies, does not require an election. The district has the authority to certify an amount with a levy limit of .0006. It requires evidence of an increase in average daily attendance in the current school year with respect to the previous year.

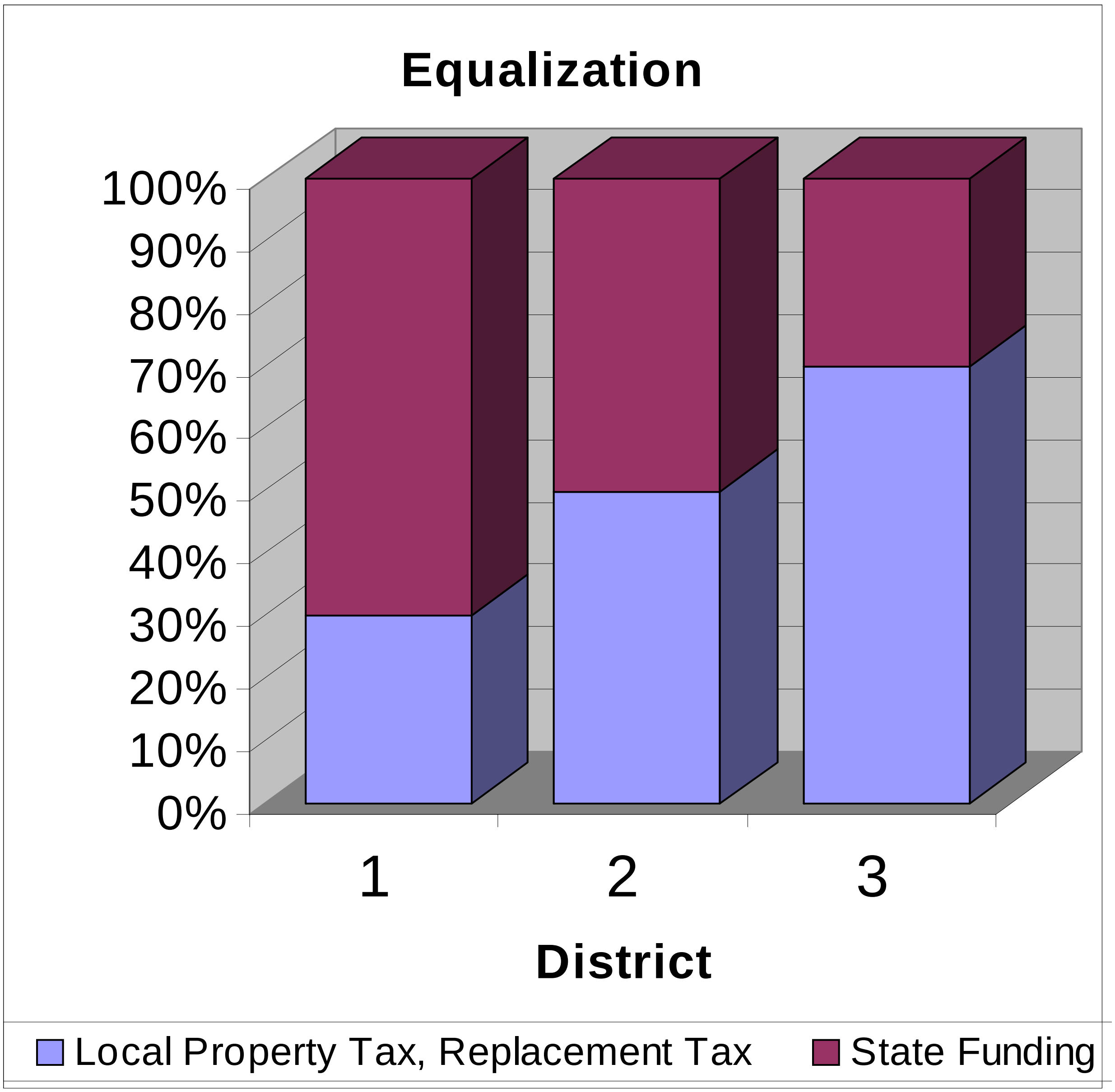
Tort levies are subject to the 3% cap.

COSSA, Tuition and Judgment levies are combined as one item on **Mr. Hill's** chart. He explained that tuition levies are subject to the 3% cap, COSSA have a levy limit of .0001 and are voter approved for 10 years. Judgment levies can be for whatever amount is necessary to satisfy the obligation.

Bond levies are limited to 5% of the prior year's actual market value, except for elementary school districts which are 2%.

Mr. Hill said that plant facility levies are the most complicated. He said these have one of three passage rates depending on the districts current bond indebtedness and the proposed plant facility as it relates to the market value. If it is below 2/10 of the market value, the passage rate is 55%, if it is between 2/10 and 3/10 the passage rate is 60% and over 3/10 passage requires a super majority. They have a levy limit of .004 for the first year only and then they are capped based on ballot measure language. These have a term of 10 years unless any portion of it is for safety and health reasons and then the term is 20 years.

Representative Lake asked for an explanation of the relationship between rich districts and poorer districts. **Mr. Hill** showed an example on the following page of how state funds are equalized with respect to local contribution.



	District 1	District 2	District 3
(A) Total Support (based on units x est. dist. factor, plus salary-based apportionment)	$7,000,000	$7,000,000	$7,000,000
(B) Adjusted Market Value (prior year-end)	$525,000,000	$875,000,000	$1,225,000,000
(C) Local Property Tax (.003), plus Replacement Tax (.001)	$2,100,000	$3,500,000	$4,900,000
(D) State Funding (A) - (C)	$4,900,000	$3,500,000	$2,100,000

In extreme cases such as Blaine County the whole bar would made up of local property tax and it would go above the $7 million mark. There is a unique situation where some districts would not only collect their $7 million through local M&O and replacement tax, but would exceed that mark. Those taxes are not shared with other districts because the taxes are collected at the county level and go to their respective taxing districts. He said that he hope this helped show the relationship between market value and state funding works.

Mr. Hill added that when the Department prepares a budget request, it is a pooled approach. By looking at the statutory requirements for the number of students, the formula for salaries and benefits, transportation reimbursement and so on, an amount is decided on. Setting aside initiatives that have not happened, this amount is the amount the Department must have to meet its statutory obligations. Regardless of what that number is, the formula says how much of it will be generated from local M&O. Then it is figured how much will be generated from dedicated state funds such as endowment land and lottery funds. What is left after that is what needs to be funded by the general fund of the state. In history if the local M&O is increased, there is less need for the state general fund. This is because the market values have gone up much faster than the state portion given a certain level of need for funding the public schools. **Mr. Hill** said that conversely, if property tax relief were provided and there was less M&O, the state funds would have to go up. In other words, regardless of the mix and given the law to fund a certain level of support for the public schools, as one side goes down, the other side goes up.

Representative Lake asked if there was a floor to the reduction in state funding as local support goes up. **Mr. Hill** said that there is a provision in state statute called flooring that is being phased out. It says that under our current system a district is guaranteed 90% of the previous year's state funds. In FY2006 that is being reduced to 50% and in FY2007 it is completely repealed. This statute was modified because recently it has been found that there were some districts whose market values increased so much they got additional moneys.

Mr. Hill also explained that not everything is equalized. Discretionary funds and salaries are equalized. Benefit apportionment is not equalized. The law says that whatever the obligations of the school district, those moneys will be forwarded to that program. He added that those are pass through dollars and in some cases they are not even sufficient. In the case of Blaine County or any other district that has such high property values, benefits, transportation and exceptional child funding are not equalized.

In response to a question from **Representative Jaquet, Mr. Hill** explained that the biggest piece of the funding or roughly 85 cents out of each dollar in the annual operating budget is paid for salaries and benefits.

Senator Werk asked if there is a cap on property tax replacement. **Mr. Hill** said that depends on what assumptions are made. One argument was in order to keep property taxes increasing, the discretionary funds need to be decreased. In other words, is it worth it to increase one at the expense of the other. **Mr. Hill** said that answer to that is yes. Jason Hancock, Legislative Services Budget and Policy Analyst, did an analysis of this on the redistribution that would occur if the property tax replacement and reduce the amount of the distribution factor. It showed that this would create a redistribution of funds.

The other argument is to assume there will be an increase in property tax replacement and the distribution factor will not be reduced.

Senator Werk asked if value freezing were done, could it be done and still exempt school M&O budgets. **Mr. Spangler** said that was difficult to answer. He said that the school formula and the constitutional limitations on property taxation are not necessarily set in stone. There may be ways to do this but the mechanics of how this would affect other areas would also have to be carefully studied.

Mr. Hill finished by stating that given the current statutes on funding schools, it is impossible to think about changing property taxes without considering the effect on general and dedicated funds. Given an agreed upon need, it will be a matter of figuring out where those funds should come from.

Representative Lake commented that by 2007, the 1% replacement would have been $95 million rather than the current $75 million. He added that there are 3 areas that are not capped that will provide $60 million of new money to the public schools through property taxes.

Mr. Hill said that every school district and charter school in the state gets the benefit of the same distribution factor even though that distribution factor might be 100% state funding as it is for charter schools and 1% state for other programs depending on the market value. Everyone gets the same amount through the formula. It is a different mix of state and local funding for each district.

Representative Lake said that in his opinion the districts that are experiencing high growth in their assessed valuations are also having high population growth and they may need the additional funds to accommodate the additional population.

In response to a question from **Senator Little, Mr. Hill** said that including charter schools, the number of districts that showed a decrease in enrollment was 65. The Meridian School District added 1,600, two stayed the same and 64 increased. The total increase was 3,500.

The meeting was adjourned at 4:30 p.m.